

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Date: February 2, 2001

Craig, et al.

Serial No.: Unassigned

Group Art Unit: Unassigned

Filed: Herewith

Examiner: Unassigned

For: DYNAMIC UPDATE PROXY

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R. 1.47
PROOF OF INVENTOR REFUSAL TO SIGN

Sir:

Nia Brett Schmalld is a joint inventor of the present application, along with Peter Alan Craig.

On information and belief, on or around November 9, 2000, Nia Schmalld terminated his employment with Coactive Networks, the assignee of the present application.

On information and belief, on December 15, 2000, Jackie Tanda obtained from Mr. Schmalld, via e-mail, his residence address as 1543 Milvia Street, Berkeley, California. Attached as Exhibit A is a copy of the e-mail received by Ms. Tanda.

On or about December 27, 2000, I was informed by Ed Koch, the Chief Technology Officer at Coactive Networks, that Mr. Schmalld may not cooperate in executing the formal papers for the present application.

On information and belief, on or about December 27, 2000, Ms. Tanda sent an e-mail to Mr. Schmalld informing him that a final draft with formal papers for the present application will

be sent to his residence address via Federal Express. Attached as Exhibit B is a copy of the e-mail sent by Ms. Tanda.

On information and belief, on December 27, 2000, a copy of the final draft of the present application, including claims and drawings, and formal papers for the present application, was sent to Mr. Schmald via Federal Express (Federal Express package). Attached as Exhibit C is a copy of the Federal Express Airbill.

On information and belief, accompanying the Federal Express package was a cover letter from Ms. Tanda requesting that Mr. Schmald execute the formal papers and to return them to our office as soon as possible. A self-addressed Federal Express envelope was provided to Mr. Schmald for his convenience. Attached as Exhibit D is a copy of the cover letter.

On information and belief, the Federal Express package was delivered to Mr. Schmald on December 28, 2000, with no signature required. Attached as Exhibit E is a copy of the Federal Express tracking record for the Federal Express package.

On January 25, 2001, I had not yet received signed formal papers from Mr. Schmald. On January 25, 2001, I sent an e-mail to Mr. Schmald to further request that he sign the formal papers in the Federal Express package and return the papers to us. Attached as Exhibit F is a copy of the e-mail.

On January 29, 2001, I had not received a response from Mr. Schmald to my e-mail of January 25, 2001. I attempted to telephone Mr. Schmald at his last known phone number, (510) 337-9773. The number is not in service.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2/2/01
Date

Michele Li
Michele Liu
Sawyer Law Group LLP
Attorney for Applicant(s)
Reg. No. 44,875
(650) 493-4540